

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL BRUNO,

Plaintiff,

-v.-

9:06-CV-0808
(DNH/DEP)

LESTER WRIGHT, Associate Commissioner, Chief
Medical Officer, *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

MICHAEL BRUNO, *pro se*

HON. ANDREW M. CUOMO
Office of Attorney General
State of New York
Department of Law
615 Erie Boulevard West
Suite 102
Syracuse, NY 13204

ED J. THOMPSON, ESQ..

DAVID E. PEEBLES,
U.S. Magistrate Judge

ORDER

Presently before the court is a motion to compel discovery filed by Michael Bruno ("Bruno" or "plaintiff") pursuant to Rule 37 of the Federal Rules of Civil Procedure. Dkt. No. 16.

Plaintiff's motion to compel was filed on May 22, 2007. Bruno seeks an order from this court directing the defendants to respond to his request for production of documents served on defendants' counsel on February 24, 2007. *Id.*, Exh. 1. Plaintiff indicates that he wrote defendants' counsel on April 16, 2007 seeking a response to the February discovery demands. *Id.*, Exh. 2. As of the filing of this motion, plaintiff had received no response to his discovery demands or correspondence from the

defendants.

Defendants requested, and were granted, an extension of time to respond to the motion to compel. Dkt. No. 17. On July 6, 2007, defendants' counsel filed a response to the motion stating that defendants served their responses to the outstanding discovery requests on July 6, 2007.¹ Dkt. No. 18.

Since July 6, 2007, the plaintiff has not indicated to the court that he believes such responses fail to fully respond to his discovery requests, or that the objections raised by the defendants were improper. Plaintiff's motion to compel, therefore, must be denied as moot, except as set forth below. *See, e.g., Johnson v. Schmidt*, No. CV-89-0531, 1992 WL 135237, at *1 (E.D.N.Y. May 28, 1992) (denying motion to compel filed by inmate where defendants had already responded to interrogatories and requests for production).

The court notes, however, that defendants promise the future production of certain documents in their July 6, 2007 responses. *See Responses* (Dkt. No. 18-2) ¶¶ 5, 9, 10. In light of the impending deadline for the filing of motions to compel, defendants shall file with the court, within thirty (30) days from the filing date of this order, an affidavit of service demonstrating that the promised documents have, in fact, been provided to plaintiff.

Defendants' counsel is reminded of his obligation to adhere to all deadlines established by this court and the Federal Rules of Civil Procedure governing this action, or to seek an extension of those deadlines from plaintiff or this court.

¹ Defendants did not seek an extension of time to respond to the discovery demands either from plaintiff or this court.

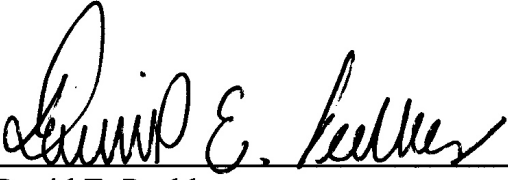
WHEREFORE, based upon the above, it is hereby

ORDERED, that plaintiff's motion to compel (Dkt. No. 16) is GRANTED IN PART, and DENIED IN PART as moot, and it is further

ORDERED, that within **thirty (30) days** from the filing date of this order, defendants shall file an affidavit of service with the court demonstrating that the documents promised in their July 6, 2007 discovery responses have, in fact, been provided to plaintiff, and it is further

ORDERED, that the Clerk serve a copy of this order on the parties in accordance with the Local Rules.

Dated: September 5, 2007
Syracuse, NY



David E. Peebles
U.S. Magistrate Judge